Draft to Clerk: Approved: Clerk:

MINUTES OF THE REGULAR MEETING BOARD OF ZONING APPEALS September 14, 2006 7:30 P.M. CITY COUNCIL CHAMBERS, 10TH FLOOR CITY HALL

I. ROLL CALL

The meeting was called to order by Chairman Burgess at 7:30 p.m. Chairman Burgess read the BZA introduction. Roll call was taken.

Present:

B. Burgess E. Horne G. Hilts M. Mayberry B. McGrain

Absent: A. Frederick G. Swix F. Lain

Staff: S. Stachowiak

A. A quorum of five members was present, allowing voting action to be taken at the meeting.

II APPROVAL OF AGENDA

B. McGrain moved, seconded by G. Hilts to approve the agenda with the addition of "Excused Absences" under new business.

On a voice vote, the motion carried 5-0.

III. <u>HEARINGS/ACTION</u>

A. <u>BZA-3885.06, 6420 S. Cedar Street</u>

This is a variance request by Young Automotive Group. The applicant is proposing to erect 2 new ground signs on the property at 6420 S. Cedar Street; each of which would be 228 square feet in area, 24 feet in height and would have setbacks of 3 feet from the property lines along S. Cedar Street and Edgewood Blvd. The applicant is also proposing to place four wall signs on the main showroom building. Section 1442.12(h)(5) of the Sign Ordinance requires a setback of 24 feet and permits a maximum size of 110 square feet in area for ground signs that are 24 feet in height. In addition, Section 1442.13(b) limits the number of wall signs to two. Variances of 118 square feet to area limitation and 21 feet to the setback requirements for two new ground signs at 6420 S. Cedar Street and 2 to the allowable number of wall signs are therefore, being requested. Staff recommended approval of the requests on a finding that the variances would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Mr. McGrain asked if the sign could be placed to the right of the building.

Michael "Skip" Young, Jr., 6420 S. Cedar Street, stated that there are trees in the area that would block the sign if it were placed any further in on the property. He also said that the property is large but its shape limits the areas where signs can be placed that would be visible to traffic. Mr. Young stated that this business just moved to Lansing and they are very excited to be a part of this community.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. Hilts stated that the Board has approved variances for similar situations in which the new signs were much further in compliance with the ordinance than the previous signs. He said that this proposal will be a substantial improvement over the previous signage on the site.

Mr. McGrain stated that this is a corner lot for all intents and purposes, even though the zoning ordinance does not recognize it as such. He stated that he could support the requested variances.

E. Horne moved to approve BZA-3885.06, a variance of 118 square feet to area limitation and 21 feet to the setback requirements for two new ground signs at 6420 S. Cedar Street and 2 to the allowable number of wall signs on a finding that the variances would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. Seconded by B. McGrain.

VOTE	YEA	NAY
Hilts	х	
Mayberry	х	
Horne	х	
McGrain	х	
Burgess	х	

Motion carried, 5-0, BZA-3885.06, was approved.

B. <u>BZA-3886.06, 1618 Osband Avenue</u>

This is a variance request by James L. Smith. The applicant is proposing to construct a new, 957 square foot, attached garage at 1618 Osband Avenue. Section 1250.03(d)(1) of the Zoning Ordinance permits a maximum size of 800 square feet for an attached garage on a lot that is 5,808 square feet in area. A variance of 157 square feet to area limitation for an attached garage is therefore, being requested.

James Smith, 1618 Osband Avenue, spoke in support of his request. He stated that at 800 square feet, the garage would look like a barn. Mr. Smith explained that the doorway and the offset between the existing and proposed garage is what puts the garage over 800 square feet, however, it is also what gives the garage some curb appeal. He said that if the variance is not approved, he will need to bring a shed onto the property which will not look

as nice as the larger garage.

Ms. Horne asked if Mr. Smith intended to remove the deck and if he intended to use the same materials for the garage as the existing house.

Mr. Smith said yes. He said that he will reuse some of the existing siding.

Mr. Mayberry asked how long Mr. Smith has lived at this location.

Mr. Smith said 3 years.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. Hilts stated that the Moores Park Neighborhood Association discussed this request at it's meeting on October 13, 2006 and is not in support of the variance.

Mr. McGrain stated that if this is one of the smaller lots in the area and there is nothing unique about it to warrant a variance. He said that he cannot support the variance.

Mr. Hilts stated that when the threshold of practical difficulty has not been met, as in this case, the Board does not have the authority to approve a variance.

Mr. Horne stated that this is a nice neighborhood and the size of the proposed garage would not be in harmony with the rest of the area. She stated that she cannot support the variance.

B. McGrain moved to deny BZA-3886.06, a variance of 157 square feet to garage size limitation at 1618 Osband Avenue, on a finding that the variance would not be consistent with the practical difficulty criteria of Section 1244.06 (c) or the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. Seconded by E. Horne.

VOTE	YEA	NAY
Mayberry	х	
Hilts	х	
McGrain	X	
Horne	X	
Burgess	Х	

Motion carried, 5-1, BZA-3886.06, was denied.

C. BZA-3887.06, 3343 Turner Street

This is a variance request by Duana Benn for a variance to the height requirement for a front yard fence. The applicant would like to construct a six (6) foot high privacy fence in the Frederick Street front yard at 3343 Turner Street. Section 1292.03(a)(1) of the Zoning Code states that no fence shall exceed a height of three (3) feet within a front yard. Therefore, a

variance of three (3) feet to the height limit for a front yard fence is being requested. Staff recommended approval of a variance for a front yard fence on a finding that the variances would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. Staff recommended that the variance be conditioned upon the wooden fence extended no further than 5 feet from the house and a row of arborvitae being planted in front of the fence, no further than 8 feet on center and of a height of no less than 3 feet at the time of planting.

Mr. McGrain asked if the fence will extend closer to the street than the front of the house to the west.

Christian Benn, 3343 Turner Street, spoke in support of his request. He stated that the fence will extend closer to Frederick Street than the front of the house to the west. Mr. Benn stated that he and his wife have a developmentally disabled son that has a tendency to leave the yard when something catches his attention. He said that a five foot tall fence will not be adequate as his son will be able to see over it. He also said that he some can become aggressive is small areas and that is why they are concerned about the staff recommendation that the fence extend no further than 5 feet from the house. Mr. Benn stated that the fence is not for privacy, it is for the security of his disabled son.

Duana Benn, 3343 Turner Street, spoke in support of her request. She said that her son does not like to be confined and a five foot area may cause him to become combative.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. Hilts stated that this may be a handicap, civil-rights matter as far as security for a disabled child is concerned. He said that he is not sure if the BZA has a right to deny this variance.

Mr. McGrain stated that the proposal seems reasonable but that he would prefer to see the fence removed if these folks no longer live on the premises.

Mr. Burgess stated that the Board could include a statement in the motion that the fence is being approved based upon the circumstances of the applicant and will become null and void if the applicants no longer occupy the property.

- B. McGrain moved to approve BZA-3887.06, a variance of 3 feet to height limitation for a front yard fence on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application, with the following conditions:
 - The fence is being approved as a special accommodation for the applicant and is to be removed upon the applicant no longer occupying the property at 3343 Turner Street; and
 - 2. Landscaping, as recommended by staff, be installed on the property.

Seconded by M. Mayberry.

VOTE	YEA	NAY
Hilts	х	
McGrain	х	
Horne	х	
Mayberry	х	
Burgess	Х	

Motion carried, 5-0, BZA-3887.06, was approved.

D. BZA-3888.06, 606 W. Shiawassee Street

This is a variance request by Mayotte Group Architects on behalf of Community Mental Health Authority for a variance to the front yard setback requirement in the "D-1" Professional Office District. The applicant is proposing the construction of an addition to the front of the building at 606 W. Shiawassee Street to accommodate an elevator. The addition, as proposed, would have a front yard setback of 7.1 feet. Section 1260.06 of the Zoning Code requires a minimum front yard setback of 20 feet in the "D-1" Professional Office District. A variance of 12.9 feet to the front yard setback requirement is therefore, being requested. Staff recommended approval of the variance request on a finding that the variance would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application.

Mr. Burgess stated that he used to work for Community Mental Health and he is surprised that it has not been made ADA compliant yet.

Mr. McGrain asked why the elevator cannot be placed on the west side of the building where it would not need a variance and would not interfere with parking.

Alan Goschka, 6005 W. St. Joe, Suite 200 spoke in support of the variance. He said that this building used to be apartments, with the staircase in the center. He stated that because of how the building is laid out, they cannot get a hallway to the elevator if it is placed on the side of the building.

Mr. McGrain asked if there was any plans to update the facade of the building.

Mr. Goschka stated that at this time, there are no plans to update the building. He said that CMH needs a new roof on the building and they just don't have the funds to do the facade.

Penny Zago, **621 W. Shiawassee Street**, spoke in opposition to the variance. Ms. Zago stated that she has worked with disabled people all of her life. She said that CMH needs to find a way to reconfigure the office so that the elevator can be on the side or rear of the building. She stated that across from this building is a row of single family Victorian homes that are welled cared for by the owners. She said that other offices in the area are in homes and this is the only one that does not fit it. Ms. Zago stated that the new addition will make the building look even worse than it already does.

John Zago, 621 W. Shiawassee Street, spoke in opposition to the variance. He stated that

the elevator should be in the back of the building where it is not visible to the neighbors. He said that he sees empty parking spaces in this lot all day long.

Richard Kanaby, 617 W. Shiawassee Street, stated that he would prefer to see the elevator addition moved to another area of the site.

Mr. Goschka stated that the elevator needs to be in the center of the building for ADA compliance. He also said that it would be cost prohibitive to have the elevator fitted into the existing building.

Mr. McGrain asked if the elevator has to be accessible from inside the building.

Mr. Goschka stated that the code requires that the elevator be accessible from inside the building.

Mr. Burgess asked if anyone else wished to address the Board. Seeing none, the Board moved into the Committee of the Whole.

Mr. McGrain stated that he was hoping that there was a way to put the addition on the west or north walls of the building. However, he said that this is a special needs accommodation and he will support the request.

Ms. Horne stated that it should be noted in the approval that this is being approved for ADA compliance only so that it does not generate future requests for lesser front yard setbacks in this area.

Mr. McGrain stated that the city may be forced to allow this, just as we are with handicap ramps, because the sole purpose of the variance is to accommodate barrier-free access to the building. He also said that the facade of the building should be updated, should the funding become available at some time in the future.

Ms. Horne stated that a lot of effort was put into this area to make it look nice.

E. Horne moved to approve BZA-3888.06, a variance of 12.9 feet to the front yard setback requirement to accommodate an elevator addition on the front of the building at 606 W. Shiawassee Street for the purpose of making the building ADA compliant on a finding that the variances would be consistent with the practical difficulty criteria of Section 1244.06 (c) and the impact criteria of Section 1244.06 (e), as detailed in the staff report for this application. Seconded by M. Mayberry.

VOTE	YEA	NAY
Hilts	х	
Mayberry	х	
Horne	х	
McGrain	х	
Burgess	x	

Motion carried, 5-0, BZA-3888.06, was approved.

VI. OLD BUSINESS

- A. Rules of Procedure No action
- B. BZA-3817.04, 1014 S. Pennsylvania Avenue No action

VII. PUBLIC COMMENT - None

VIII. APPROVAL OF MINUTES

A. <u>Minutes of Regular Meeting held August 10, 2006</u>

E. Horne moved, seconded by G. Hilts to approve the minutes of August 10, 2006 with the following correction:

Page 7, 1st paragraph under New Business, change "absent" to "absence'.

On a voice vote, the motion carried unanimously, 5-0.

IX. <u>NEW BUSINESS</u>

A. Excused Absences

E. Horne moved, seconded by G. Hilts to grant an excused absence to B. McGrain for the October 12, 2006 meeting. On a voice vote, the motion carried unanimously, 5-0.

B. Code Violations

Mr. McGrain stated that there are new front yard fences at 300 May and 300 N. Clemens Streets.

X. ADJOURNMENT AT 8:55 p.m.

Respectfully submitted,	
Constant Charles and Charles a	-
Susan Stachowiak, Zoning Administrator	